

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 154 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE D.C.SRIVASTAVA sd/-

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO
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BHARATBHAI AMARATBHAI KOTHARI

Versus

SALIM ALLANUR QURESHI

Appearance:

MR NS SHETH for Petitioner No. 1
MR HORMAZ B SHETHNA for Respondent No. 1
MR DP JOSHI, A.P.P. for Respondent No. 2

CORAM : MR.JUSTICE D.C.SRIVASTAVA

Date of decision: 14/08/2001

ORAL JUDGEMENT

1. This Revision is directed against the order of Additional Sessions Judge, Palanpur, passed on 17.4.2001 whereby he has allowed the Revision Application filed by the present respondent No.1 and has directed that the case property, viz. cattle which included sheeps and goats seized from the Truck be handed over in possession of Respondent No.1 in this Revision on certain terms and conditions imposed in the said order.

2. List has been revised thrice, but none appeared for the revisionist. The record shows that after getting the revision admitted the revisionist - Managing Trustee of Deesa-Rajpur Panjarapole, Deesa is not interested in proceeding with this revision. On 19.6.2001 the revisionist was directed to file English translation of the Judgment under revision, but it was not complied with. It was adjourned in my absence on 17.7.2001. Again on 31.7.2001 direction was given to the revisionist to file English translation of the judgment under challenge, but this has not been complied with. Nobody is present from the side of the revisionist today. English translation of the judgment under challenge has been filed by Shri H.B.Shethna for the respondent No.1. In these circumstances Shri H.B.Shethna, learned Counsel for the respondent No.1 and Shri D.P.Joshi, learned A.P.P. for the respondent No.2 were heard and order under revision has been examined. After careful scrutiny of the order under revision I do not find any illegality which calls for any interference in the order under revision.

3. There is no dispute that the cattle which were seized from the truck were owned by the respondent No.1. It was not a case of illegal transit. Requisite fee was paid and 'bilty' was also got prepared from the transporter. No other person came forward to allege ownership or claim for possession of the cattle. The revisionist Panjarapole however wanted custody of the cattle which was granted by the Chief Judicial Magistrate, Palanpur, against which revision was filed which was decided through the impugned order by the Addl. Sessions Judge, Banas Kantha at Palanpur

4. In the impugned order the learned Addl. Sessions Judge has considered all the relevant materials, especially the question as to who is entitled to possession of the case property. He has also taken into

consideration the conduct of the Panjarapole and thought it proper that since no earlier offence was committed by the respondent No.1 herein and that there was no possibility of cruelty being further committed by the respondent No.1 he passed the impugned order. Such order is perfectly justified and legal in the eyes of law.

5. However, controversy is raised in this revision that 225 goat and 79 sheeps were seized from the truck. Thus, the total number of cattle comes to 304 according to Shri Shethna. Shri D.P.Joshi, however, informs that this figure was written in the F.I.R. on simple information given by the respondent No.1 to the arresting Officer at the time of seizure of the truck and when the cattle were segregated and counted actually 225 goats and 69 sheeps were seized. The total number of seized cattle thus comes to 294. At this stage Shri Shethna states that this figure of total number of cattle is correct and no controversy is involved in the total number of cattle seized. Therefore, the revision has no merit. The order under revision does not require any interference. The revision is therefore dismissed.

sd/-

August 14, 2001. (D. C. Srivastava, J.)

sas